Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Developing a Unified Intercarrier Compensation Regime	)	CC Docket No. 01-92
	)	
	)	

COMMENTS BY TELETRUTH, NEW NETWORKS INSTITUTE

NOTE: Teletruth has filed a "Data Quality Act" Complaint as well

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Introduction:

The customer perspective pertaining to "Intercarrier Compensation" can be summed up in a simple equation:

Intercarrier Compensation = (equals)

- Raise the FCC Subscriber Line Charge 185% since 2000, from $3.50 to the proposed $10.00 a month without adequate cost analyses or proper customer notification.

- Raise the Universal Service Fund (USF) Tax, especially on broadband, without any audits or 'means' testing of the USF High Cost Fund recipients.
- Raise all other taxes and surcharges applied to these items.

The steps that should be taken are:

a) Do a full audit of the phone companies' equipment and costs for local service to demonstrate that the original raise of the FCC Line Charge cap starting in 2000, from $3.50 to $6.50 for residential customers and $6.00 to $9.00 for businesses, was a mistake.
b) Audit the High Cost Fund and other Universal Service fees, both state and Federal.
c) Request the FCC to do a full disclosure for customers, in plain English, of the impacts of "intercarrier compensation", — meaning the increases to local phone charges through the FCC Line Charge increase, Universal Service increases, as well as associated taxes and surcharges.
d) Do an audit of phone bills to map the increases to customer local and long distance services over the last five years, including all additional taxes, bogus additional fees, and other charges. Include an analysis of all cross-subsidization of the local phone bill with all other phone company services, from long distance to DSL.

We agree that the current regime of access fees (intercarrier compensation) has serious problems. But that does not mean that customers should pay more before the country knows what the actual costs of local service are, or the proper adjustments to the FCC Line Charge or Universal Service should be, not to mention all taxes applied.

Let's put some facts on the table:

1) The "Intercarrier Compensation" Is a Truth-In-Advertising, Data Quality Act Violation. There is No Mention of the FCC Line Charge Increases in the Press Release.

First and foremost, the FCC needs to tell it like it is. This proceeding should be called "How to Raise the FCC Line Charge to $10 a Line". The FCC's discussions on this topic are laden with multiple "truth-in-billing/truth-in-advertising" violations because it has not made clear to the public that this docket is really about raising customers' local phone service rates – i.e.; phone bill charges. It is hidden as "intercarrier compensation", but the outcomes have little to do with the carriers because ultimately, the final burden of any decision will be to raise phone rates for all customers.

Nowhere in any of the FCC's press announcements or write-ups of this proceeding has the FCC even alluded to the ultimate harms. For example, the FCC's own release on this topic not only doesn't mention the FCC Line Charge, but it doesn't include the most important customer point —- That the "Intercarrier Compensation Forum", (ICF), the phone companies' cabal, has suggested that this charge increase! The FCC writes:

> "Intercarrier Compensation Forum (ICF). The group represents a diverse group of nine carriers. The plan would reduce most per-minute termination rates from existing levels to zero over a six-year period." (FCC release, February 10, 2005)

See: http://www.teletruth.org/docs/intercarriercompprDOC-256705A1.doc

How can a small business get involved when the materials presented by the FCC doesn't outline the real impacts — that these actions may raise local phone rates? Instead, the FCC has biased the information by using a statement that there is a "reduction" of access rates, making it sound that there is a customer savings.

Of course, the ICF will argue that intercarrier compensation is about "termination rates" and "access fees", the fees charged to long distance companies. However, these fees are actually 'pass-throughs' that the customers pay and are built into long distance service prices. And any changes to lower these fees are being based on raising the FCC Line Charge and Universal Service, which is not mentioned in the release.

More to the point, we'll discuss how the previous lowering of access fees did not result in a major lowering of long distance charges. In fact, our phone surveys had mixed results, many harmful, on customers' long distance charges, (based on residential bills). Other independent groups have found similar issues.

2. "Raise the FCC Line Charge" Is the "Intercarrier Plan"

The current proposed plan starts with the FCC Line Charge's current rate as the base to raise the charge. The ICF Plan would have significant increases per line.

> "For large carriers, the maximum monthly residential and single-line business subscriber line charge ("SLC") cap increases by $0.75 in each of the first two years of the Plan. In each of the next two years, it increases by $1.00, on July 1, 2007 and by $1.00 on July 1, 2008. The non-primary residential and multiline business SLC caps increase only to the extent that they otherwise would be below the residential cap. A carrier's average SLC also may rise no more than $0.75, $0.75, $1.00, and $1.00 at each of these steps, respectively, although individual SLCs that are significantly below the $6.50 cap before the start of the transition may increase by a slightly greater amount. As of July 1, 2008, all monthly SLC caps for non-CRTCs are unified, and the SLC cap is indexed for inflation starting on July 1, 2009."

The outcome is simple – Every line pays up to $10 dollars or more, depending on inflation. (Source ICF Plan, August 2004)

3. The FCC Line Charge Should Have Been Investigated, Not Continually Raised.

This docket is also a continuance of something more disturbing, known as the "CALLS Plan". Starting in 2000, the cap for a residential single line went from $3.50 to $6.50, second lines from $3.50 to $7.00, and business lines from $6.00 to $9.00.

The theory behind this was the long distance prices would drop when access fees were lowered in exchange for the raising of a fixed cost, the line charge, on all phone bills.

As we pointed out in our Data Quality Act Complaint, (the first filed at the FCC), it is clear that the FCC based its decision on, not only incomplete data, but unreproducible data, and therefore unreliable. Also, the FCC was supposed to do a full cost analysis of the FCC Line Charge, which was never done. Teletruth was not the only group concerned with bad data and a lack of accurate statistics. FCC Commissioner Michael Copps wrote:

> "I am troubled that consumers will face an increase in the line charge on their local bill **without the Commission undertaking a thorough analysis of forward-looking cost data.** In 2000, when the Commission adopted access charge reform for price cap carriers, the Commission pledged that it would initiate and complete before July 1, 2002 a cost review proceeding to ensure that consumers are not overpaying for telecommunications services. This has not been done. Carriers were required to provide, and the Commission stated that it would examine forward-looking cost data. **A significant number of carriers, however, submitted summary data without disclosing the inputs used, cost models that were not transparent**, or in some cases, models that have been rejected by the state commissions….**The Commission then failed to conduct its own independent analysis of the cost data.** By failing to undertake the thorough analysis of cost data that was promised in the access reform order, we are neglecting our obligation to consumers. (Emphasis added.)"

To read our Complaint claiming the FCC failed to conduct proper cost analyses, and other information about this charge, or more on Data Quality Act, see: http://www.teletruth.org/RemoveFCCLineCharge.html

4. Truth-in-billing Issues with the Term "FCC Line Charge".

NOTE: Teletruth uses this term because the reference to the "FCC" is on the majority of phone bills in America. However, there are over 10 different terms used throughout the US. It is, in and of itself, a truth-in-billing error because the description leads the majority of customers to believe it goes to fund the FCC. It also does not describe that this is direct, unaudited revenue to the local phone companies.

We also note that the FCC has numerous violations of the Data Quality Act throughout its web site, documents, etc. pertaining to this term. As quoted, the FCC calls this charge the “Subscriber Line Charge”, (SLC). It never uses the “FCC” as part of this term in the quoting of this phone charge, thus contradicting current practice found on actual phone bills.

Teletruth filed a separate complaint about the Truth-in-Billing issues with this term. http://www.teletruth.org/RemoveFCCLineCharge.html

5. **The Costs to Offer Service Has Continued to Decline and Yet This Rate Keeps Increasing.**

Probably the most disturbing part of increasing the FCC Line Charge is the fact that the major costs to offer service have continually declined.

- Since 1984, there has been a 65% drop in employees per line. This means that 35% of the remaining staff can do 100% of the increased workload.
- Since 2000 there has been a 50% drop in new construction expenditures. As the older networks continue to be written off (depreciated), the underlying network costs continue to drop.

If the two largest costs have been slashed how can FCC continually believe that it needs to increase this charge.

6. **The FCC Audits Showed Missing Equipment and that data was Not Used in the FCC Line Charge’s Cost Analysis**

The FCC Line Charge was created in 1984 and its formula to determine the actual costs to the customer used a form of regulation known as ‘rate-of-return’, meaning that the charge was based on the expenses. And the FCC used 1992 rate-of-return data as the base number to start the increases in 2000.

However, the FCC’s own audits clearly showed that the original starting point for raising this rate were seriously inflated. The starting point was based on the equipment in the network and the FCC’s own audits found massive amounts of missing network equipment, approximately $19 billion dollars. That was only ¼ of the audits to be conducted. These audits were dropped by the FCC because of political pressures and turned over to the states, which have done little to follow through on this issue.

We have argued that the starting point for the FCC Line Charge used ‘cooked books’, which inflated expenses, and it impacted the cost of this charge to every US local phone customer.

7. Increases to the Universal Service Fund and Applying it to Broadband?

Teletruth recently wrote a letter to Chairman Martin to investigate the Universal Service Fund because we believe it is an out of control corporate subsidy. It has increased 185% since 1999. The largest part of the fund, the High Cost fund, now funds very profitable phone companies. Worse, there is a serious lack of audits and proper staffing, and there has been serious fraud found of the "Erate".

Here's just some of our findings: http://www.newnetworks.com/universalservicefund.htm

To highlight:

- The Universal Service Fund is a tax on interstate wireline and wireless services, and represents a number of different funds including the Erate (wiring of schools and libraries), the High Cost Fund, Lifeline, and other funds.
- The Universal Service Fund has increased from 3.9% on long distance services in 1999 to 11.1% in 2005, a 185% increase.
- The largest part of this fund is NOT for wiring of schools and libraries, but to "High Cost Funds", which are corporate subsidies to the phone companies. The High Cost Fund represents over 60% of the total collected, doubling from $1.7 in 1999 to $3.4 billion in 2004. — and growing.
- These funds are NOT going to corporations that need this money. Many of the phone companies receiving funds have 55% profit margins (EBITDA), in a large part. from this High Cost fund.
- Declining Costs: As mentioned, the costs to offer local service has continued to drop over the last 5 years. The USF increases have been against a backdrop of construction cuts, down 50%, and employees-per-line plummeting 65% since 1984.
- Double-Quintuple Taxation? Many states have also added statewide High Cost funds, Erates, Lifeline services and other services covered under the federal program, and NO ONE HAS EXAMINED THESE PROFITS or multiple funds!
- Insult to Injury – The FCC has allowed the Universal Service Fund to be applied to the FCC Line Charge, which is on local phone bills.
- Major Fraud and Lack of Audits — Everyone from the FCC Attorney General and other regulators are finding Erate fraud, a lack of audits, as well as large profits to companies that don't need the money

We argue that the main problem with the Universal Service Fund is that this massive fund lacks serious analysis, investigation and oversight. Increasing this fund for very rich corporations is not what should happen next. And yet, the ICF's plans include removing the cap for High Cost Funds, the largest part of the fund that goes back to the local phone companies, and taxing broadband.

"Means Testing USF" We also argue that the USF High Cost Fund should be 'means' tested, meaning that companies who receive these funds should be required to prove need based on audits, not simply greed. (Teletruth will be publishing more on this topic.)

8. Harm to Broadband

America is now 12th-16th in the world for offering broadband service, depending on which source you believe. And, of course, the phone companies have all promised to deliver higher speeds to the public, including offering services based on fiber optics. Many argue that broadband is essential for our economic growth. And yet, this plan calls to increase the Universal Service charges, especially to broadband.

The ICF's convoluted Universal Service increases, not only includes new funds, but gives little detail about the actual harm to customers. Their concept is to tax every phone number something called a "Unit", every DSL service one unit, and business services based on capacity of the bandwidth with an ever-increasing series of units.

Unit Assessments
(Source, ICF plan August 2004)

Residential
- Each unique working telephone number: 1 unit
- DSL, cable modem and other high-speed, non-circuit switched connections assessed 1 unit.

Business:
- Non-switched, dedicated network connections with capacity of less than 1.5mbps assessed 1 unit.
- Non-switched, dedicated network connections with capacity of at least 1.5mbps but less than 45mbps assessed 5 units.
- Non-switched, dedicated network connections with capacity of at least 45mbps but less than 200mbps assessed 40 units.
- Non-switched, dedicated network connections with capacity of 200mps or greater assessed 100 units.

Recent announcements of 100 mps to 1 gigabit of speed were made in Japan last month for about $45 dollars. Meanwhile, Verizon's FIOS has priced 30 mps at $199. – (So much for competitive product offerings.)

Under this regime, the USF taxes could cost the customer more than for the service. (Since the "Unit" is so ill defined at this point, it is impossible to tell how these broadband taxes will be implemented exactly.)

We also note that the ICF plan is to tax each phone number a 'unit'. Though it appears simpler, it is totally unfair to all low use customers, who don't make a great deal of interstate calls. While we argue that the percentage of USF tax (11.1%) is outrageous, a flat tax is simply more harmful to the bottom line of all low use customers.

NOTE: In other places we've written about how the cost of service in the US already inflated with the phone companies' commitment to deploy 45mps over fiber to households, which were never delivered. See: http://www.newnetworks.com/BroadbandandDSL.htm

9. What Happened with the CALLS Proposal? Did Long Distance Rates Go Down? The Data Shows New Charges and Increases.

The FCC should undertake a serious analysis of the actual "cost-per-minute" for long distance, examining whether the CALLs Proposal FCC Line Charge increases were justified or whether the price of long distance was reduced. This analysis should include ALL charges a customer pays in relationship to long distance service, including all fees collected, from the per month cost, the cost per minute, the additional taxes and surcharges, the bogus 'cost recovery' and regulatory assessment fees, the increases in USF, etc.

In our current phone surveys, we found multiple disturbing trends, each impacting different user groups.

- $5.00-$10.00 price per minute. — On one side of the equation we have low use customers who are now paying outrageous "price per minute" charges when all of the taxes, surcharges, plan fees are added together.
- Additional Charges are everywhere. — While a company may advertise a "5 cent a minute" plan, the actual price per minute can be $.20-$.50 cents per minute. As with the low user category, the average user is also being hit with multiple additional charges, many of which are questionable at best. They include "Single Bill Fee", "Cost Recovery Fee", "Regulatory Assessment Fee", and "TRS" fee, among others. (NASUCA's petition on Truth-in-Billing addressed some of these charges.)
- Increases in the Universal Service Fund have also increased the actual cost to the customer.
- Package Harm –15%-25% are paying more. One of the primary reasons given for the changes in intercarrier compensation is that customers can now get "ALL you can eat" packages or "buckets of minutes". In our New York/New Jersey surveys we found that this was a myth. The average (read majority) of customers do better on a simple ala carte plan, though, because the FCC and states keep raising the local phone services, these changes are raising bottom line costs. Worse, 15-25% of everyone on a package is now paying more that if they simply had ala carte plans.

- Package Harm — Truth-in-Advertising Violations. When various phone companies quote the price of their service, they neglect the taxes and surcharges. For example, based on our analysis in New York City, on a $59.95 plan, the customer can pay 35% more because the FCC Line Charge, the Universal Service Fund, and all taxes and surcharges are NOT included.
- "Basic Rates, etc. Up Dramatically — The recent study by Consumer @ction showed numerous increases in the costs of long distance service.

  "CA's long distance calling basket includes 126 minutes of basic rate calls in all rate periods. The totals for AT&T, MCI, SBC, Sprint and Verizon jumped from $109.83 in 2000, after SBC and Verizon (then Bell Atlantic) started to compete in the long distance market, to $182.02 today—an increase of 66%. (For companies with a basic rate monthly fee, the fee is always included in the calling basket total.)"

  "The study finds new miscellaneous charges, including many non-government-mandated regulatory assessment fees, and steep hikes in the cost of directory assistance, collect calls and calling card calls. The survey includes detailed charts on calling plans, basic rates, directory assistance charges and nationwide cell phone plans with anytime minutes."

See: http://www.consumer-action.org/English/CANews/2005_Instate_Telrates/

In short, there is nothing that shows that the CALLS proposal worked for the majority of customers – i.e.; that long distance prices dropped enough to off-balance the increases to the FCC Line Charge, when all of the charges are included.

10. A Slew of Other Factors

Teletruth believes that there are many new factors that need to be considered when any of the proposed changes are made. These include:

a) As we have written elsewhere, the imminent mergers of AT&T and SBC, Verizon (Qwest) and MCI, will destroy stand alone long distance services, as well as local/long distance competition by MCI and AT&T, and their new owners, SBC and Verizon. See: http://www.newnetworks.com/SBCATTVerizonMCImergers.htm
b) The rulings that have either raised or removed the UNE-P regime, ---- the wholesale rates which allowed competitors to offer choice, have also had detrimental impacts on competitive offerings, and will get worse, not better.
c) VOIP, the local-long distance destroyer, is now under attack on multiple fronts. First, VOIP requires broadband and the current FCC decision allows the phone companies to require that their own local service be purchased as a prerequisite of purchasing broadband —thus killing any VOIP as a stand alone product. Secondly,

every regulator is now being prodded by the Bell companies to add every current phone tax and surcharge, thus making the service more expensive than any local incumbent. And VOIP competition is still more hype than a serious competitive service. Vonage, the largest company, only has a half million customers.

d) Massive unchecked cross-subsidization — Local phone service is being used as a banker for long distance and DSL rollouts, including all advertising, marketing, etc, and this has also harmed all competitive long distance.

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